

Mr Walding

PHYSICAL ENVIRONMENT

ANALYSIS

Title	8. Authority to be Commission of Inquiry
1. Short Title and commencement	9. Committees
2. Interpretation	10. Members not personally liable
3. Physical Environment Authority	11. Staff of Authority
4. Functions of the Authority	12. Annual Report by Authority
5. Excess of prescribed standards prohibited	13. Authority to comply with Government policy
6. Act to bind the Crown	14. Regulations
7. Offences	15. Saving of other Acts

A BILL INTITULED

An Act to make provision for the establishment of a Physical Environment Authority for the prevention and reduction of environmental pollution

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament Assembled, and by the authority of the same, as follows:

1. **Short Title and commencement**—This Act may be cited as the Physical Environment Act 1970 and shall come into force
10 on a date to be appointed by the Governor-General by Order in Council.

No. 17—1

Price 5c

2. Interpretation—In this Act, unless the context otherwise requires,—

“Environmental Pollution” means the contamination or the rendering unclean or impure of the air, waters, or land or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to animal or plant life: 5

“Contaminant” means solids, liquids, or gases which if discharged into the air or waters or on to land will result in injury to human, animal, or plant life or to property or which unreasonably interferes with the enjoyment of life and property: 10

“Air pollution” means the presence in the air of any contaminant:

“Water pollution” means the presence in any lake, river, bay, or other internal waters or in the territorial sea of any contaminant: 15

“Land pollution” means the presence on or under any land of any contaminant:

“Industrial plant” includes any plant used for any industrial trade purposes whatsoever including the generation of power, or for the operation of vessels, dredges, vehicles, locomotives, cranes, or other machines using any combustible material for their operation: 20 25

“Local Authority” means a local authority within the meaning of the Local Authorities Loans Act 1956:

“Minister” means the Minister of Health:

“Occupier” means—

(a) The person in occupation or control of any premises; 30

(b) The person for the time being having the command, charge, or management of any vehicle or vessel:

“Premises” includes land, buildings, easements, and any place, vehicle or vessel: 35

“Vehicle” includes any motor vehicle, omnibus, locomotive, aeroplane, or other means of conveyance that uses combustible material for its operation.

3. Physical Environment Authority—(1) There is hereby established for the purposes of this Act an Authority to be known as the Physical Environment Authority. 40

(2) The Authority shall consist of not more than five members to be appointed by the Governor-General in Council.

(3) Every member of the Authority shall be appointed for a term of 3 years, but may be reappointed or may at any time
5 be removed from office by the Governor-General in Council for disability, insolvency, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Governor-General.

(4) If any member of the Authority dies, is removed from
10 office, resigns, or becomes ineligible to be a member of the Authority, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made. Every person appointed under this subsection shall be appointed for the residue of the term for which his pre-
15 decessor was appointed.

(5) Unless he sooner vacates his office as provided in this section, every member of the Authority shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

20 (6) The powers of the Authority shall not be affected by any vacancy in the membership thereof.

4. Functions of the Authority—(1) The functions of the Authority are:

- 25 (a) To prepare and develop schemes for the prevention, abatement, and control of air, water, and land pollution and to revise and implement such schemes:
- (b) To conduct or direct studies, investigations, and
30 research relating to the causes, effects, prevention, abatement, and control of air, water, and land pollution, and to determine the extent of environmental pollution by means of field studies, scientific investigations, and public inquiries:
- (c) To co-ordinate efforts to prevent all kinds of environmental pollution and to control the disposal of
35 liquid solid and gaseous wastes:
- (d) To adopt standards concerning the disposal of liquid solid and gaseous wastes, taking into consideration public health, safety, and welfare, aesthetic values, the impact of such wastes on the senses and the
40 economic effects of the measures to be adopted:

(e) To ensure that the standards adopted are complied with by the occupier of any premises.

(f) To make the rules and regulations necessary for the proper execution and enforcement of the powers and duties granted to the Authority.

(2) Every such rule or regulation shall be laid by the Minister before Parliament within 10 days of them being promulgated or 10 days of its sitting if it is not sitting at the time of such promulgation and they shall have no effect until they have been approved by Parliament.

5. Excess of prescribed standards prohibited—(1) The occupier of any premises shall not, unless he is exempted by the Authority from the provisions of this section, conduct any trade, industry, or process or operate any equipment or industrial plant in or on such premises in a manner likely to cause or permit any environmental pollution in excess of the standard of concentration prescribed in respect of that trade, industry, process, equipment, or industrial plant.

(2) Where any standard referred to in subsection (1) of this section has not been so prescribed, the occupier of any premises shall conduct any trade, industry, or process and operate any equipment or industrial plant in or on the premises by such practicable means as may be necessary to prevent or minimise environmental pollution.

(3) If the Authority for special reasons thinks fit to do so, it may in whole or in part exempt the occupier of any premises from the provisions of subsection (1) of this section or allow the occupier a stated period of time in which to comply with the provisions of subsection (1) of this section.

(4) The occupier of any premises who has been exempted by the Authority from the provisions of subsection (1) of this section shall comply in every respect with any condition attached to the exemption.

(5) Any person who does not comply with the provisions of this section shall be guilty of an offence against this Act.

(6) Any person affected by a decision of the Authority made under this section may within 28 days after such decision has been given appeal to the Administrative Division of the Supreme Court against the whole or any part of the decision.

6. Act to bind the Crown—This Act shall bind the Crown.

7. Offences—(1) Any person who contravenes or fails to comply with any provision of this Act or any requirement of or prohibition imposed by any regulation or order made under or pursuant to this Act, is guilty of an offence.

5 (2) Any person who is guilty of an offence against this Act or any regulation or order made thereunder is liable to a penalty of not more than one thousand dollars and if the offence is a continuing one is liable to a further penalty not exceeding one hundred dollars for every day on which the
10 offence continues.

8. Authority to be Commission of Inquiry—The Authority shall, within the scope of its jurisdiction, be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and subject to the provisions of this Act and of any
15 regulations made thereunder, the provisions of that Act, except sections 2, 11, and 12, shall apply accordingly.

9. Committees—(1) The Authority may from time to time appoint a committee or committees consisting in each case of two or more persons, to advise the Authority on such
20 matters relating to its functions as are referred to them by the Authority.

(2) In particular, the Authority may appoint regional advisory committees to advise the Authority on problems involved in applying the Act to particular regions of New
25 Zealand.

10. Members not personally liable—No member of the Authority or of any committee appointed by the Authority shall be personally liable for any act done or default made by the Authority or by any committee or member of it in
30 good faith in the course of the operations of the Authority or committee.

11. Staff of Authority—(1) There shall from time to time be appointed under the State Services Act 1962 such officers and staff as may be necessary to provide technical, scientific,
35 and administrative services to the Authority and to undertake studies and research concerning environmental pollution, and to make investigations and reports with regard to the implementation of this Act.

(2) The Authority may from time to time engage under a contract for services such professional and technical or other assistance as it may consider necessary to enable it to carry out its functions.

12. Annual Report by Authority—The Authority shall in the month of April in each year or as soon thereafter as is practicable, prepare and submit to Parliament a report on its operations and proceedings for the year that ended with the 31st day of March then last past. 5

13. Authority to comply with Government policy—(1) In the exercise of its functions and powers under subsection (3) of section 5 of this Act to permit exemptions from compliance with any standard or to defer the compliance for a stated period the Authority shall comply with any general or special directions given by the Minister to the Authority by notice in writing pursuant to the policy of the Government in relation to such standards provided that the provisions of subsection (2) of this section shall have been complied with. 15

(2) A copy of every notice under subsection (1) of this section shall be laid by the Minister before Parliament for approval within 28 days after the date of the notice if Parliament is then in session, and, if not, shall be laid before Parliament for approval within 28 days after the commencement of the next ensuing session. 20

14. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 25

- (a) Regulating the procedure of the Authority and of any committee appointed by it;
- (b) Prescribing the procedure to be followed in respect of applications to the Authority for its consent to exemptions or extensions of time for compliance with the standards laid down by the Authority which are authorised by subsection (3) of section 5 of this Act. 30

15. Saving of other Acts—Every Act for the time being in force relating to air, land, or sea pollution or to any matter concerning environmental pollution in general shall be read subject to the provisions of this Act. 35